

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

GERALD A. POYNTER, II

Defendant.

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Case No. 11-00223-01-CR-W-BCW

**MOTION OF DEFENDANT GERALD POYNTER
FOR CONTINUANCE OF TRIAL SETTING,
WITH SUGGESTIONS IN SUPPORT**

COMES NOW Defendant Gerald Poynter, by and through his undersigned attorney, and moves the Court to continue the above-captioned cause from the trial setting of July 9, 2012, 2011, until the joint criminal jury trial docket commencing in January, 2013.

IN SUPPORT of this Motion, Defendant states as follows:

1. Defendant is charged in a Seventy-Two Count Indictment returned September 21, 2011, along with thirteen co-defendants, with engaging in a conspiracy to defraud the Internal Revenue Service, in violation of 18 U.S.C. § 286, and various defendant are charged with substantive offenses of filing false or fraudulent claims for income tax refunds, in violation of 18 U.S.C. §§ 287 and 2. Following his first appearance and arraignment on October 6, 2011, defendant was released on bond pending trial. This case is currently set on the criminal docket commencing July 9, 2012, having been continued from the November 28, 2011, docket.

2. This is a complex matter, with possibly unique defenses, and case preparation will be extensive. Defense counsel had previously been provided with a significant amount of discovery

in this case, in excess of 10,000 pages. On or about May 1, 2012, counsel was provided with several thousand additional pages of discovery, including approximately 225 memorandum of interviews with witnesses, including those of some defendants, voluminous search warrant documents, and cd recordings of various meetings among defendants and others. Counsel needs sufficient time to meet with defendant to review and analyze the extensive discovery, and to discuss the charges and possible defenses, any pretrial motions, the sentencing guidelines applications, and to make a decision whether this case is for plea or trial. These tasks cannot be accomplished before the July 9, 2012, trial setting.

3. Defendant Poynter consents to this continuance request, and waives his rights under the Speedy Trial Act.

4. Counsel for the government, Dan Nelson and Tom Larson, do not object to this request for a continuance, and suggest a trial date in January, 2013. Government counsel and several defense counsel in this case also have a trial scheduled in the Petro America case on the October, 2012, docket which may take two weeks or more. Counsel for various defendants have been contacted and of the nine who responded as of this date, none oppose a continuance from the July docket, and also suggest a trial date in January, 2013.

5. This continuance is not sought for the purpose of delay, but is sought so that defendant may be afforded due process of law under the Fifth Amendment and effective assistance of counsel under the Sixth Amendment to the U.S. Constitution. It is submitted these reasons outweigh the interest of the public and defendant to a speedy trial under 18 U.S.C. Sec. 3161(c)(1).

6. The delay in trial resulting from this motion should be excluded in computing the period of time within which defendant should be brought to trial under the Speedy Trial Act.

WHEREFORE, Defendant prays that this Court continue the above-captioned cause from the trial setting of July 9, 2012, until the joint criminal jury trial docket commencing January 7, 2013.

/s/Ronald E. Partee
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Attorney for Defendant Gerald Poynter

CERTIFICATE OF SERVICE

I hereby certify that on June 1, 2012, I electronically filed the foregoing with the clerk of the Court using the CM/ECF system, which will send notification to the following: Daniel M. Nelson and Thomas M. Larson, Assistant United States Attorneys, and all counsel of record.

/s/ Ronald E. Partee